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REMARKS

The Applicant points out that in the claims and specification the word "stationary" in regards to flow, has been more appropriately amended to be "steady, uniform flow". This amendment is believed necessary to more clearly set forth the important aspect of maintaining the steady state or uniform flow in, and from the nozzle of the present invention. This amendment is based on a more accurate translation of the term "stationare Stromung" from the original German specification, as found in the De Vries Herrmann German-English Technical and Engineering Dictionary, New Second Edition, 1966, McGraw-Hill, and is therefore not believed to be new matter.

Claims 7-12 are rejected, under 35 U.S.C. § 103(a), as being unpatentable over JP '459 in view of Gazewood '566. The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the following remarks.

As the Examiner is aware in order to properly support an obviousness rejection under 35 U.S.C. § 103(a), the cited references must be pertinent prior art, and must provide some disclosure, teaching or suggestion which would motivate, or lead, one of skill in the art to combine the references as suggested by the Examiner. Furthermore, if the references are combinable, they must disclose, teach or suggest every limitation in the applicant's claim.

JP '459 discloses separate oil supply nozzles 10, 11 which individually supply lubricating oil to a belt and opposing pulley's of a CVT. Each nozzle 10, 11 is arranged on either the input pulley or the output pulley. This dual supply structure, which arguably is related to the problem of sufficiently supplying lubrication and cooling oil to a CVT, is specifically different than the single nozzle design of Gazewood '566, as well as the presently claimed invention.

On the other hand, Gazewood '566 teaches a venturi apparatus for jetting, and recirculating a fluid, primarily for purposes of cleaning a container by chemical treatment or washing. (See Gazewood '566, column 1, lines 4 - 9). Gazewood '566 uses a venturi device to develop a highly non-laminar flow for scouring a container and recirculating the jetted fluid which is in fact a completely different nozzle structure and use from the present invention as

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well as JP '459. Besides the fact that Gazewood '566 discloses a nozzle 4 having a separate outer sleeve 6 including a plurality of ports for recirculation, and an annulus area 16 therebetween, a feature of the Gazewood nozzle is that "...the nozzles and throats may be inclined at an offset angle so that a swirling action may be imparted to the fluid in the annulus." (Column 3, lines 28-30).

The standard for a 35 U.S.C. § 103(a) obviousness rejection requires some suggestion, teaching, or disclosure which would motivate one of ordinary skill in the art to combine the cited references. A person of ordinary skill in the art is described in Gazewood '566 as someone who would recognize that tubular members, which are exposed to hydrocarbons and water in a variety of different settings, are susceptible to corrosion and deposition of materials such as scale. (See Gazewood '566, column 1, lines 9 - 20). Nowhere in Gazewood '566 is there a reference to a continuously variable transmission nor any aspect thereof. Furthermore, the only section of the JP '459 reference in English is the Abstract, which clearly makes no reference to tubular members exposed to harsh conditions nor a need for cleaning such tubular members.

Furthermore, as discussed in JP '459 it is very important to direct the flow of lubricant to the specific vicinity of the CVT which needs the lubricant. As noted in the "PROBLEM TO BE SOLVED: To supply lubricating oil to a friction and heat generation part of a belt surely and efficiently even when a running position of the belt is deviated due to the change of change gear ratio." It is readily apparent from the plurality of passages and orifices in Gazewood '566 that the nozzle here is designed for a very swirled or random flow out of the nozzle. This is exactly the sort of flow which both JP '459, as well as the present invention intend to avoid. As noted in the Applicant's specification at paragraph 009, "Due to the emergency of the first oil jet, the oil in the nozzles is so swirled that it affects the further course of the flow. It is thus hardly possible that the emerging oil jet from the second discharge opening can optimally supply a specific area with oil."

Therefore the Applicant contends that not only is there no suggestion, disclosure, or teaching which would motivate one of ordinary skill in the art to combine the references as

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the Examiner has done, but in fact the very nature of the jetting and recirculation nozzle of Gazewood '566 teaches away from a combination with a CVT device as in JP'459 and the present invention which requires a specifically directed flow.

Even if the references could be combined, and the Applicant adamantly disputes that they can, no combination of the references would result in the disclosure, teaching or suggestion of each and every element of the Applicant's claimed invention. Gazewood '566 describes a cylindrical member (4), which is placed inside an outer sleeve (6). The cylindrical member has a great variety of openings. The fluid, which discharges from the cylindrical member, gets mixed before it comes out of the outer sleeve. The Examiner points out that Gazewood '566 has a flow diameter, which diminishes between discharge openings (56) and (24). However, Gazewood '566 does not vary the flow diameter between the discharge openings (58) and (56).

The Applicant has currently amended independent claim 7 to more clearly explain the presently claimed invention having a nozzle with a flow diameter, "wherein the nozzle is a multiple-jet nozzle (4) in which a flow diameter (9, 10) of the multiple-jet nozzle (4) gradually diminishes, in a flow direction (13), between *each axially adjacent* discharge openings (7,8)." (emphasis added). Only by this constant gradually diminishing flow diameter can the Applicant guarantee that the continuity equation is fulfilled and a sufficiently laminar flow is maintained in the entire inner space of their nozzle. Whereas Gazewood '566 does not disclose a constant gradual diminishing in flow direction of the flow diameter, as evidenced by discharge openings 56 and 58, which are axially adjacent discharge openings with the same flow diameter.

Because the remaining claim rejections are based upon independent claim 7, which is now believed to be allowable, the Applicant respectfully requests that all of the raised rejections should be withdrawn at this time. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

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The Applicant notes that new independent claims 14 and 16 are added and which contain subject matter which is not disclosed, taught or suggested by the cited references either alone or in combination. In particular in claim 14 is recited the feature

wherein the fluid supply passage in the nozzle communicates with a first and a second axially separated discharge openings and an initial diameter of the fluid supply passage diminishes between the first and second discharge openings, *and the second discharge opening has a smaller diameter than the first discharge opening* to provide a steady uniform fluid flow in the area of the first and second discharge openings.

Similarly claim 16 includes the further feature "a *single*, multiple jet nozzle for supplying cooling and lubricating fluid to the encircling device (3) and the first and second pairs of cone pulleys (1, 2). . .", none of these features are disclosed, taught or even suggested by the applied references.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised obviousness rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejections or applicability of the Gazewood '566 and JP '459 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating

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the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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